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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,882	02/23/2004	Craig French	3426-0108P	7102

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EXAMINER

LUPINO, GINA M

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 06/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/782,882	Applicant(s) FRENCH, CRAIG	
	Examiner Gina M. Lupino	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5-7,12 and 14-20 is/are rejected.
- 7) ☐ Claim(s) 5 and 17 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

I. Specification

Content of Specification

- (f) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:
- (2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."

1. The disclosure is objected to because of the following informalities:

- 1.1. On page 2, lines 8-13, U.S. Patent No. 4,703,969 (Rayburn), and U.S. Patent No. 4,585,264 (Miller) are discussed in "Description of the Background Art" but not listed in the Information Disclosure Statement.
- 1.2. On page 2, line 3, U.S. Published Application No. 2002/0003186 (Leland) is correctly cited in "Description of the Background Art", but incorrectly cited in the Information Disclosure Statement. In the Information Disclosure Statement, "Hinds" should say -- Leland --.
- 1.3. On page 3, line 8, U.S. Patent No. 4,703,969 (Rayburn) and U.S. Patent No. 4,585,264 (Miller) are discussed in "Description of the Background Art" but not listed in the Information Disclosure Statement.
- 1.4. On page 4, lines 8-10, U.S. Patent No. 5,332,166 (Kepes) is discussed in "Description of the Background Art" but not listed in the Information Disclosure Statement.
- 1.5. On page 4, line 4, "Hidier" is misspelled and should be say -- Heider --. See page 4, line 4, U.S. Patent No. 4,437,622 (Heider).
- 1.6. Appropriate correction is required.

II. Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Several terms used in the claims are inconsistent with terms used in the specification and are not indicated on any drawings.
 - 1.1. In claim 1, "lifting arms" must be shown on a drawing.
 - 1.2. In claims 1, 9, 17 "rack members" must be shown on a drawing.
 - 1.3. In claims 5, 6, "support arms" must be shown on a drawing.
 - 1.4. In claims 6, 7, "fulcrum arms" must be shown on a drawing.
 - 1.5. In claim 11, "collars" must be shown on a drawing.
 - 1.6. In claim 11, "lynch pins" must be shown on a drawing.
 - 1.7. In claim 12, 13 "locking device" must be shown on a drawing.
 - 1.8. In claims 12, 13 "securing rack" must be shown on a drawing.
 - 1.9. In claim 14, "main frame arms" must be shown on a drawing.
 - 1.10. In claim 15, "horizontal lateral cross member" must be shown on a drawing.
 - 1.11. In claim 15, "lever arm" must be shown on a drawing.
 - 1.12. In claim 18, 20 "spindle collars" must be shown on a drawing.
 - 1.13. In claim 19, 20 "spindle bars" must be shown on a drawing.
 - 1.14. In claim 20, "mounting plate" must be shown on a drawing.
 - 1.15. In claim 20, "prongs" must be shown on a drawing.
2. Therefore, these features must be either shown on a drawing or canceled from the claim(s). No new matter should be entered.
3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure

number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

III. Claim Objections

1. Claims 5 and 17 are objected to because they contain grammatical errors.
 - 1.1. Claim 5, lines 1-2, says “wherein said main frame including a tongue...” and should say -- wherein said main frame includes a tongue --.
 - 1.2. Claim 17, lines 1-2, says “wherein said bars are supports by the pockets...” and should say -- wherein said bars are supported by the pockets...--.

IV. Claim Rejections - 35 USC § 112

The following is a quotation from the relevant paragraphs of 35 U.S.C. 112:

(2) The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 7, 12, 14, 15, 17, and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

1.1. Claim 7 recites the limitation "the trailer" in line 4. There is insufficient antecedent basis for this limitation in the claim.

1.2. Claim 12 recites the following limitations:

1.2(a) "the spindles" in line 2

1.2(b) "said pockets" in line 3

1.2(c) There is insufficient antecedent basis for these limitations in the claim.

1.3. Claim 14 recites the limitation "said main frame arms" in line 4. There is insufficient antecedent basis for this limitation in the claim.

1.4. Claim 15 recites the limitation "said lever arm" in line 3. There is insufficient antecedent basis for this limitation in the claim.

1.5. Claim 17 recites the limitation "the pockets" in line 2. There is insufficient antecedent basis for this limitation in the claim.

1.6. Claim 18 recites the following limitations:

1.6(a) "the spindle bars" in line 3

1.6(b) "the spindle collars" in line 4

1.6(c) There is insufficient antecedent basis for these limitations in the claim.

V. Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in

this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 3, 5, 6, 15, 16, 18, 19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by SCHWEIN (U.S. Patent No. 4,095,706).

1.1. With respect to claim 1, SCHWEIN discloses a loading apparatus comprising:

1.1(a) A main frame 16 supported by a plurality of wheels 38;

1.1(b) A lifting frame 49 pivotally attached to said main frame 16, said lifting frame 49 including a lever arm 64 and a pair of spaced-apart lifting arms 72 operably connected thereto;

1.1(c) A support rack 42 attached to said lifting arms 72, said support rack 42 comprising a pair of spaced-apart rack members 42, said rack members being configured to support a spool 14; and

1.1(d) A connecting device for connecting said lifting frame 49 to the main frame 16 to prevent pivoting movement of said lifting frame 49.

1.2. With respect to claim 3, SCHWEIN discloses a loading apparatus, as discussed above, and a main frame 16 that includes a tongue 28 with a hitch 24 mounted at the front of said tongue 28 for towing loading apparatus.

1.3. With respect to claim 5, SCHWEIN discloses a loading apparatus, as discussed above, and a main frame 16 that includes a tongue 28 and a pair of spaced-apart support arms 42 operably connected thereto.

1.4. With respect to claim 6, SCHWEIN discloses a loading apparatus, as discussed above, and support arms 42 that include a pair fulcrum arms 75 extending upwardly diagonally therefrom.

1.5. With respect to claim 15, SCHWEIN discloses a loading apparatus, as discussed above, with a lifting frame 49 that includes a horizontal lateral cross member 52

interconnecting forward ends of the lifting arms 72 and to which a rearward end of a lever arm 64 is attached.

- 1.6. With respect to claim 16, SCHWEIN discloses a loading apparatus, as discussed above, that is adapted to carry bales 14, the bales being held in place by bale penetrating bars 92. See Figures 1 and 2 and column 3, lines 41-43.
- 1.7. With respect to claim 18, SCHWEIN discloses a loading apparatus, as discussed above, that is adapted to carry bales 14 that are held in place by bale engaging and holding members 42, 44, which are rotatably mounted on spindle bars 68 and are held in place by spindle collars 85. See Figures 1-3 and column 2, lines 40-50.
- 1.8. With respect to claim 19, SCHWEIN discloses a loading apparatus adapted to carry bales 14, as discussed above, where the engaging and holding members 42, 44 are rotatable over the spindle bar 68 allowing the bale to unroll. See Figures 1-3.
- 1.9. With respect to claim 20, SCHWEIN discloses a loading apparatus adapted to carry bales 14, as discussed above, that has a mounting plate 76, 86, 90 that has a plurality of penetrating prongs 92 which engage the bale 14, a mounting plate 76, 86, 90 rotatably positioned on the spindle bars 68 and held in place by the collars 85, and prongs 92 directed laterally into the bale 14. See
2. Claims 1, 3, and 14, are rejected under 35 U.S.C. 102(b) as being anticipated by DEARBORN (U.S. Patent No. 6,305,894).
 - 2.1. With respect to claim 1, DEARBORN discloses a loading apparatus comprising:
 - 2.1(a) A main frame 10 supported by a plurality of wheels 16;
 - 2.1(b) A lifting frame 26 pivotally attached to said main frame 10, said lifting frame 26 including a lever arm 28 and a pair of spaced-apart lifting arms 12 operably connected thereto;

2.1(c) A support rack 34 attached to said lifting arms 12, said support rack 34 comprising a pair of spaced-apart rack members 34, said rack members being configured to support a spool; and

2.1(d) A connecting device for connecting said lifting frame 26 to the main frame 10 to prevent pivoting movement of said lifting frame 26.

2.2. With respect to claim 3, DEARBORN discloses the loading apparatus as discussed above and a main frame 10 that includes a tongue 20, 22 with a hitch 24 mounted at the front of said tongue for towing said loading apparatus.

2.3. With respect to claim 14, DEARBORN discloses the loading apparatus, main frame 10, tongue 20, 22, and hitch 24 as discussed above, where the main frame 10 includes a horizontal lateral cross member 14 interconnecting forward ends of the main frame arms 12 and to which a rearward end of the tongue 20, 22 is attached.

VI. Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over SCHWEIN in view of BILLS (U.S. Patent No. 4,701,098).

1.1. With respect to claim 4, SCHWEIN discloses a loading apparatus with a main frame 16 supported by a plurality of wheels 38, a lifting frame 49 pivotally attached to said main frame 16, said lifting frame 49 including a lever arm 64 and a pair of

spaced-apart lifting arms 72 operably connected thereto, a support rack 42 attached to said lifting arms 49, said support rack 42 comprising a pair of spaced-apart rack members 42, said rack members being configured to support a spool, and a connecting device for connecting said lifting frame 49 to the main frame 16 to prevent pivoting movement of said lifting frame 49.

1.2. However, SCHWEIN fails to teach a U-shaped yoke fastened to a vertical support member extending upwardly from a main frame. BILLS teaches a U-shaped yoke adapted to receive one end of a spindle and move the spindle into the bearing carriers 78 and 80, which are pivotally secured to bearing portion 82 by means of a pin 86. See claim 7, column 3 lines 61-68, and column 4 lines 1-5.

1.3. Thus, it would have been obvious to one of ordinary skill in the art to modify SCHWEIN with the U-shaped yoke of BILLS in order to receive and fasten the vertical support member 21 to the lifting arms.

2. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over SCHWEIN in view of COWLES (U.S. Patent No. 4,213,729).

2.1. With respect to claim 7, SCHWEIN discloses a loading apparatus as discussed above, a tongue 28, and a pair of spaced-apart support arms 42 that include a pair fulcrum arms 75 extending diagonally upwardly. However, SCHWEIN fails to teach a trapezoidal plate joining upper ends of the fulcrum arms where the fulcrum arms form a triangle, the two bottom corners of the triangle are fastened to a trailer, and the trapezoidal plate is at an apex of the triangle. COWLES teaches a rectangular flat plate 37A that is integrally affixed to a leg 35 and is not rotatable relative to leg 35 but rather rotates with leg 35 as a fixed entity. See column 9, lines 8-40.

Therefore, it would have been obvious to one of ordinary skill in the art to modify SCHWEIN with the rotatable flat plate of COWLES in order to join both fulcrum arms together to form a triangle.

2.2. With respect to claim 8, SCHWEIN discloses the loading apparatus discussed above. However, SCHWEIN fails to teach trapezoidal plates with holes drilled, cast, cut, or stamped in them to accommodate a pin and to function as a fulcrum. COWLES teaches a circular opening 37B machined into rectangular flat plate 37A that accommodates a rod 39. See column 9, lines 35-40, 55, column 10, lines 13-16. Therefore, it would have been obvious to one of ordinary skill in the art to modify SCHWEIN with the plate of COWLES in order to have a rotatable plate with a hole that can accommodate a pin and function as a fulcrum. See column 9, lines 35-68, and column 10, lines 1-50.

3. Claims 9, 10, 12, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over SCHWEIN in view of BOGAR (U.S. Patent No. 4,108,313).

3.1. With respect to claim 9, SCHWEIN discloses the loading apparatus, as discussed above. However SCHWEIN fails to teach rack members that have a plurality of U-shaped pockets at various heights along the rack members where the pockets form a resting and securing place for ends of spindles upon which the spools are positioned. BOGAR teaches a plurality of open-channel U-shaped pockets 12 at various heights along a gun rack 10, where the pockets 12 form a resting and securing place for ends rifles. See Figures 1, 2, and 5. Therefore, it would have been obvious to one of ordinary skill in the art to modify SCHWEIN with the open-channel U-shaped pockets of BOGAR in order to hold and secure ends of spindles upon which spools are positioned.

3.2. With respect to claim 10, SCHWEIN discloses the loading apparatus as discussed above. However SCHWEIN fails to teach rack members with U-shaped pockets of a plurality of sizes to accommodate various spool and spindle diameters. BOGAR teaches a plurality of open-channel U-shaped pockets, as discussed above, that can be mounted across a range of vertical distances. See

Figures 1, 2, 5 and column 4, lines 44-50. Therefore, it would have been obvious to one of ordinary skill in the art to modify SCHWEIN with the open-channel U-shaped pockets of BOGAR in order to accommodate various spool and spindle diameters.

3.3. With respect to claim 12, SCHWEIN discloses a loading apparatus, as discussed above. However, SCHWEIN fails to teach rack members with a locking device and a securing rack capable of holding spindles in pockets. BOGAR teaches a gun rack 10 mounted to a vehicle by brackets 60, which contains pockets 16 capable of holding spindles. Therefore, it would have been obvious to one of ordinary skill in the art to modify SCHWEIN with the brackets 60 of BOGAR in order to make a rack capable of receiving, holding, and securing spindles in pockets.

3.4. With respect to claim 17, SCHWEIN discloses a loading apparatus adapted to carry bales using bale penetrating bars, as discussed above. However, SCHWEIN fails to teach pockets in the rack members that are capable of supporting bale penetrating bars. BOGAR teaches gun rack pockets 16 capable of supporting bars. Therefore, it would have been obvious to one of ordinary skill in the art to modify SCHWEIN with the rack pockets 48 of BOGAR in order to support bale penetrating bars.

4. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over SCHWEIN in view of HENDERSON (U.S. Patent No. 5,203,658). With respect to claim 11, SCHWEIN discloses a loading apparatus as discussed above that could secure a spool or bale 14 in position on a spindle 68. However, SCHWEIN fails to teach a spool secured into position on a spindle using locking and centering collars or lynch pins on both sides of the spool. HENDERSON teaches guide members 14 that have removable pivot or lynch pins 16 at their lower ends 15 to connect the side frames 7 to the chassis 2. Therefore, it would have been obvious to one of ordinary skill in the

art to modify SCHWEIN with the lynch pins of HENDERSON in order to secure a spool into position on a spindle.

5. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over SCHWEIN in view of BOGAR (U.S. Patent No. 4,108,313) and HENDERSON (U.S. Patent No. 5,203,658).

5.1. With respect to claim 13, SCHWEIN discloses a loading apparatus as discussed above, but fails to teach a rack with pockets that is mounted to a vehicle, capable of holding spindles, and kept into a desired position by a spring loaded locking device.

5.2. BOGAR teaches a rack mounted 60 to a vehicle with pockets 48 and which is capable of holding spindles, as discussed above. Therefore, it would have been obvious to one of ordinary skill in the art to modify SCHWEIN with the brackets 60 of BOGAR in order to make a rack capable of holding, securing, and locking spindles into pockets.

5.3. HENDERSON teaches a traverse pin 19 locked in position by a spring biased locking pin 25. See column 3, lines 11-13. Therefore, it would have been obvious to one of ordinary skill in the art to modify SCHWEIN with the spring biased locking pin 25 of HENDERSON in order to secure the rack into a desired position using a spring loaded locking device.

VII. Conclusion


1.1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1.2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gina M. Lupino whose telephone number is (571) 272-6557. The examiner can normally be reached on 8:30am - 5:00pm EST.

1.3. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

1.4. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

1.5. GML



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